



**FILED**

08-06-07

04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Implement the  
Commission's Procurement Incentive Framework  
and to Examine the Integration of Greenhouse Gas  
Emissions Standards into Procurement Policies.

Rulemaking 06-04-009  
(Filed April 13, 2006)

**ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION  
OF THE STATE OF CALIFORNIA**

In the Matter of:

Order Instituting Informational Proceeding on a  
Greenhouse Gas Emissions Cap

Docket 07-OIIP-01

**OPENING COMMENTS OF THE  
SALT RIVER PROJECT  
AGRICULTURAL IMPROVEMENT AND POWER DISTRICT  
ON THE ADMINISTRATIVE LAW JUDGES' RULING REQUESTING COMMENTS AND  
LEGAL BRIEFS ON MARKET ADVISORY COMMITTEE REPORT**

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**OPENING COMMENTS OF THE  
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ON THE ADMINISTRATIVE LAW JUDGES' RULING REQUESTING COMMENTS AND  
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In accordance with Rules 1.9 and 1.10 of the Rules of Practice and Procedure of the Public Utilities Commission ("CPUC") of the State of California, the Salt River Project Agricultural Improvement and Power District ("SRP") hereby files these Opening Comments ("Comments") on the *Administrative Law Judges' Ruling Requesting Comments and Legal Briefs on Market Advisory Committee Report* ("ALJ Ruling") filed July 19, 2007, in Rulemaking 06-04-009. SRP also files these Comments with the California Energy Commission ("CEC") in Docket 07-OIIP-01. In these comments, the CPUC and CEC will be referred to collectively as the Joint Commissions.

**I. INTRODUCTION**

SRP is a political subdivision of the State of Arizona, which owns and operates electric generation, transmission and distribution systems and irrigation and water supply systems. SRP provides wholesale transmission and retail electric services to more than 920,000 residential, commercial, agricultural and mining customers in Arizona. SRP participates in the California market as a seller when it has excess generation in order to maximize the value of its assets for ratepayers.

The ALJ Ruling requested comments on the first-seller (the "First-Seller") approach as defined in the ALJ Ruling and posed a series of questions regarding this approach. First-seller is defined in the ruling as "(a) for in-state California generation, the first seller is the generator, in all cases; and (b) for imported power, the first seller is the entity that first delivers electricity at a point of delivery within

California.”<sup>1</sup> However, the ALJ Ruling and the Market Advisory Committee report (“MAC Report”) also describe the responsible party or the point of regulation as the “importing contractual party” and they go on to state that “The first seller approach presumably would impose a compliance obligation on contractors bringing power into the state, as identified on E-tags or through some other reporting mechanism.” To SRP it is unclear if SRP, as a seller into the California market, would be considered the first-seller or if the entity purchasing from SRP and importing the power to California would be considered the first seller. The ALJ Ruling goes onto emphasize “[E]xcept where specifically indicated below, all of the questions in this ruling refer to the first option, where the deliverer/first seller is both the point of regulation and the entity required to report its emissions.”<sup>2</sup> SRP does not have enough information on the First-Seller approach to provide meaningful responses to the specific questions posed in the ALJ Ruling. SRP has prepared its comments as general responses to the topics discussed in the ALJ Ruling highlighting issues that would be of concern to an entity that has historically sold electricity into the California market and intends to continue doing so. We hope this will be of value to the Joint Commissions as they move forward in their deliberations.

## **II. GENERAL POLICY ISSUES**

SRP commends the Joint Commissions for considering a market based approach as part of the regulatory structure for reducing greenhouse gases. SRP generally favors market based approaches, such as a “Cap-and-Trade” program for emission regulation. SRP believes that this method promotes an efficient marketplace and encourages emission reductions. The MAC Report accurately states that “one

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<sup>1</sup> ALJ Ruling, at 3 (footnote omitted).

<sup>2</sup> Id. at 4.

of the main attractions of a cap-and-trade system is its potential to achieve stated emissions targets and to do so at a lower cost than would be possible if facilities faced individual emissions limits.”<sup>3</sup>

As stated earlier, SRP does not have sufficient detail about the First-Seller approach to make a definitive statement either in support or opposition to this approach. SRP is concerned about how a First-Seller approach would be structured. The ALJ Ruling requests that commentors assume that the deliverer is the point of regulation and reporting.<sup>4</sup> SRP reads this to mean that the regulation will apply to an entity like SRP that sells energy into California rather than the entity in California that is buying power. SRP believes this approach creates greater complexity than is necessary to accomplish the goals of Assembly Bill 32. SRP is concerned that such an approach could create violations of the constitutional Commerce Clause because the state is seeking to exert control over entities that are, arguably, outside of its jurisdiction. There is also significant uncertainty about how such entities would acquire allocations regardless of whether they are awarded or auctioned. Finally, if such a program is not structured appropriately it could lead to entities avoiding the California market, making less energy available to California. Each of these concerns will be discussed in greater detail throughout these comments.

#### **A. INTERACTION WITH ENERGY MARKETS**

Implementation of the new cap-and-trade program should not have an adverse impact on energy markets. SRP is concerned with both system reliability and unintended market distortions. The First-Seller approach could adversely impact the reliability of the energy markets if exceptions are not created for reliability. For example, in the event of an emergency in which a generator trips off line, California entities should be able to procure replacement energy without encountering emissions allowance

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<sup>3</sup> Market Advisory Committee to the California Air Resources Board, “Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California,” at 7 (June 30, 2007) (the “MAC Report”).

<sup>4</sup> See ALJ Ruling, at 4.

concerns. Additionally, SRP believes that the First-Seller approach could have unintended market effects. It is clear that the goal is to internalize the price of the carbon emissions associated with generation. The requirement to acquire allowances is another burden to overcome when selling in the California market. Parties that have no obligation to serve load in California could reduce energy sales to California to avoid such burdens thereby significantly reducing the amount of generation available to California consumers.

## **B. REPORTING TRACKING AND VERIFICATION**

The implementation of the Greenhouse Gas Cap-and-Trade program should not burden current electricity trading practices by requiring the identification of specific generating units used to make sales to California. However, assigned or approximated “emission intensity” values for a control area or entity outside California should recognize the types of resources used to make surplus sales. For example, SRP’s coal fired resources are primarily used to serve SRP retail loads and therefore should not be used in identifying the emission intensity for off system sales.

## **C. GHG EMISSION ALLOWANCE ALLOCATION**

The allocation of emission allowances will be one of the most important elements of any Greenhouse Gas Cap-and-Trade program. There needs to be a clear understanding of how allowances are allocated and how they are used. There are several unanswered questions, such as if SRP is selling to an entity in California, does SRP transfer allowances or does it receive allowances or does it just provide the energy? Will the cost of allowances be reflected in power prices or will the amount of allowances required for a particular supplier simply impact the buyer’s decision on which entity to buy from?

SRP is concerned that under the First-Seller approach, the delivering entity may have difficulty acquiring necessary allowances to complete a transaction. For example, if the credits were allocated on an annual basis, the delivering entity would have a difficult time determining how many allowances to acquire. SRP generally sells its excess generation and would not know how much generation it could sell into the California market at the time the allowances were allocated. This problem is worsened if the allocations are auctioned. SRP would be forced speculate about the amount of electricity it intends to sell to California and purchase allowances to cover that amount. SRP could be long on its allowances due to overestimation of the amount of energy it could sell to the California market. Therefore, in order to reduce that risk SRP would likely purchase a smaller amount of allowances than it estimated it needed thereby reducing the opportunity to make sales into California and reducing the amount of energy available to California consumers. This problem still exists even if there SRP could purchase from a secondary market throughout the year. Those credits may not be available or may be at a higher price. This would further complicate sales into the California market potentially reducing the amount of energy available.

#### **D. INTERACTION WITH POTENTIAL FEDERAL REGULATIONS**

SRP believes any solution should be a national one rather than a state-by-state approach. Many of the issues identified in the MAC Report, such as leakage and contract swapping, are the direct result of implementing a single state program rather than a national solution. Nevertheless, SRP agrees with the MAC Report's recommendation 8.2.7 which, in part, states "[T]o achieve maximum benefits, California's efforts must be coordinated with—and reinforce the effect of—similar programs at the regional, national, and international levels. Our recommendations for a California cap-and-trade

program have been developed with this objective in mind.”<sup>5</sup> SRP supports efforts to design the program in a manner that will allow it to eventually transition smoothly into a federal program.

### **III. CONCLUSION**

SRP appreciates the opportunity to provide these opening comments to the CPUC and CEC for your consideration.

Dated: August 6, 2007

Respectfully submitted,

/s/ Rebecca C. Goldberg

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<sup>5</sup> MAC Report, at 84.

### Certificate of Service

I hereby certify that I have on this day served a copy of this **Opening Comments of the Salt River Project Agricultural Improvement and Power District On the Administrative Law Judges' Ruling Requesting Comments and Legal Briefs on Market Advisory Committee Report** on all known parties to R.06-04-009 by transmitting an e-mail message with the document attached to each party named with an e-mail address in the official service list dated August 2, 2007. Parties without e-mail addresses, Commissioner Michael R. Peevey, Administrative Law Judge Charlotte TerKeurst, Administrative Law Judge Jonathan Lakritz, and Administrative Law Judge Meg Gottstein, were mailed a properly addressed copy by first-class mail with postage prepaid. A copy of the **Opening Comments of the Salt River Project Agricultural Improvement and Power District On the Administrative Law Judges' Ruling Requesting Comments and Legal Briefs on Market Advisory Committee Report** was also filed with the CEC by transmitting an e-mail message with the document attached to the CEC Docket Office.

Executed on August 6, 2007.

/s/ Rebecca C. Goldberg

Rebecca C. Goldberg



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Proceeding: R0604009 - CPUC - PG&E, SDG&E,  
Filer: CPUC - PG&E, SDG&E, SOCALGAS, EDISON  
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